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| SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 21, 23, 24, & 30 | | Page 1 of 19 |
| 1. REQUISITION NUMBER AMCDDXX-0017-3 | 2. CONTRACT NO. | 3. AWARD/EFFECTIVE DATE |
| 4. ORDER NUMBER | 5. SOLICITATION NUMBER 031-M-APHIS-03 | 6. SOLICITATION ISSUE DATE 05/05/2003 |
| 7. FOR SOLICITATION INFORMATION CALL | a. NAME José-Luis Gallagher | b. TELEPHONE NUMBER (No collect calls) 612-336-3206 |
| 8. OFFER DUE DATE/LOCAL TIME 05/22/2003 2:00 pm Central Time | | |
| 9. ISSUED BY Code: 6395 USDA, APHIS, MRPBS, ASD, Contracting Butler Square Bldg., 5th Floor 100 North Sixth Street Minneapolis, MN 55403 | | 10. THIS ACQUISITION IS [] UNRESTRICTED [X] SET ASIDE 100% FOR [X] SMALL BUSINESS [] SMALL DISADV. BUSINESS [] 8(A) SIC: 314911 SIZE STANDARD: 0500 EMPLOYEES |
| 11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED [] SEE SCHEDULE | 12. DISCOUNT TERMS | 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING |
| 14. METHOD OF SOLICITATION [] RFQ [] IFB [X] RFP | | |
| 15. DELIVERY TO CODE See Schedule, pages 4, 13 and 14. | | 16. ADMINISTERED BY Code: 6395 (If other than Item 5) same as issuing address |
| 17a. CONTRACTOR/OFFEROR Code: Facility Code: TELEPHONE NO. | | 18a. PAYMENT WILL CODE BE MADE BY USDA, APHIS, BAD 1400 Independence Ave. SW Stop 3439 - Laura MacKenzie Washington, DC 20250-3439 |

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS (Continued)

☐ 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER

18b. SUBMIT INVOICES TO THE ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED
☐ SEE ADDENDUM

| 19 ITEM NO | 20 SCHEDULE OF SUPPLIES/SERVICES | 21 QUANTITY | 22 UNIT | 23 UNIT PRICE | 24 AMOUNT |
|---------------|-------------------------------------|----------------|------------|------------------|--------------|
|---------------|-------------------------------------|----------------|------------|------------------|--------------|

01 Polypropylene Spiral Sewn Cotton Bale Bags
 for flat bales, 70" x 100"

_____ each _____

02 Spiral Sewn Burlap Cotton Bale Bags,
 70" x 100"

_____ each _____

Note: For this solicitation, **the government requires a total quantity of 19,700 bags.** Offeror(s) shall stipulate the number of bags to be provided under each item number.

03 Wire Bale Ties, round, 10 gauge, 10 ft. 3 in. long
 (To be ordered by pattern:
 Six wires in each pattern.)

16,875 pattern _____

03 Wire Bale Ties, round, 10 gauge, 10 ft. long
 (To be ordered by pattern:
 Six wires in each pattern.)

1,300 pattern _____

25. ACCOUNTING AND APPROPRIATION DATA

26. TOTAL AWARD AMOUNT
 (For Govt Use Only)

☒ 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, FAR 52.212-4. FAR 52.212-3, FAR 52.212-5 ARE ATTACHED. ADDENDA ☐ ARE ☒ ARE NOT ATTACHED.

☐ 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA ☐ ARE ☒ ARE NOT ATTACHED.

28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 2 COPIES
☐ TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.

29. AWARD OF CONTRACT: REFERENCE _____
☐ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN ARE ACCEPTED AS TO ITEMS: _____

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS (Continued)

| | | | | | | |
|--|---|------------------------------------|-------|-------|--|--|
| 30a. SIGNATURE OF OFFEROR/CONTRACTOR | 31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER) | | | | | |
| 30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT) | 31b. NAME OF CONTRACTING OFFICER Patricia Y. Harris | | | | | |
| 30c. DATE SIGNED | 31c. DATE SIGNED | | | | | |
| 32a. QUANTITY IN COLUMN 21 HAS BEEN [] RECEIVED [] INSPECTED [] ACCEPTED AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED | 32b. SIGNATURE OF AUTHORIZED GOVT. REPRESENTATIVE | 32c. DATE | | | | |
| 33. SHIP NUMBER | 34. VOUCHER NUMBER | 35. AMOUNT VERIFIED CORRECT FOR | | | | |
| <table border="1"> <tr> <td> </td> <td>PARTIAL</td> <td> </td> <td>FINAL</td> </tr> </table> | | PARTIAL | | FINAL | | |
| | PARTIAL | | FINAL | | | |
| 36. PAYMENT [] COMPLETE [] PARTIAL [] FINAL | 37. CHECK NUMBER | | | | | |
| 38. S/R ACCOUNT NUMBER | 39. S/R VOUCHER NUMBER | | | | | |
| 40. PAID BY | | | | | | |

41a. I CERTIFY THIS ACCOUNT IS CORRECT FOR PROMPT PAYMENT

| | |
|--|-----------------------------|
| 41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER | 41c. DATE |
| 42a. RECEIVED BY (PRINT) | 42b. RECEIVED AT (Location) |
| 42c. DATE REC'D (YY/MM/DD) | 42d. TOTAL CONTAINERS |

AUTHORIZED FOR LOCAL PRODUCTION

STANDARD FORM 1449 (10-95)
 PRESCRIBED BY GSA-FAR(48 CFR)53.212
 OMB NO.:9000-0136
 Expires: 09/30/98

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STATEMENT OF WORK

The contractor shall provide the USDA, Agricultural Marketing Service, Cotton Program with polypropylene spiral-sewn bale bags for flat cotton bales, 70 inches x 100 inches, and/or spiral-sewn burlap bale bags for flat cotton bales, 70 inches x 100 inches. The contractor shall provide a total of **19,700** cotton bale bags. The contractor shall also provide **16,875** patterns of wire bale ties, round, 10 gauge, 10 ft. 3 in. long, (six wires in each pattern.) and **1,300** patterns of wire bale ties, round, 10 gauge, 10 ft. long (six wires in each pattern.)

All bags shall meet the specifications for cotton bale bags as stated in the 2001 Specifications for Cotton Bale Packaging Materials, published by the Joint Cotton Industry Bale Packaging Committee. The following sections of the specifications apply, depending on the type of bag(s) provided:

1. Specifications for Bale Ties:
 - 1.2.2 Wire Ties
 - 1.22.1 For Use on Flat Bales and Bales Compressed to Standard Density and Universal Density at a Warehouse
 - 1.2.2.1.2 Fabricated, Interlocking Wire
2. Specifications for Bagging:
 - 2.1 General Requirements
 - 2.2.1 Spiral Sewn Burlap Bags
 - 2.2.4 Polypropylene Bagging
 - 2.2.4.1 through 2.2.4.5.6
 - 2.2.4.9 through 2.2.4.11.13

The Specifications for Cotton Bale Packaging Materials may be obtained from the Publications and Education section of the National Cotton Council's web site, located at www.cotton.org. To access the specifications, select "Publications and Education" and then select the specifications near the bottom of the publications list.

The contractor shall deliver the bags in accordance with the delivery dates and locations listed on pages 13 and 14.

Information for Offerors:

1. Offeror(s) shall submit a full size sample bale bag of the burlap and/or polypropylene material to the following address and point of contact no later than date and time that proposals are due. The sample bag is considered part of the proposal and late submittal of the sample bag will be considered a late proposal.

USDA, AMS, Cotton Program
3275 Appling Road
Memphis, TN 38133

Attention: Amanda Stollings and Robbie Seals

(901) 384-3000 (phone)
(901) 384-3033 (fax)

2. Offeror(s) shall return two (2) copies of the proposal to the Contracting Office on page 1, box 9, to the attention of Jose-Luis Gallagher.

CONTRACT CLAUSES

B.1 52.212-4 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (FEB 2002)

- (a) Inspection/Acceptance. The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its post-acceptance rights--
 - (1) Within a reasonable time after the defect was discovered or should have been discovered; and
 - (2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.
- (b) Assignment. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.
- (c) Changes. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.
- (d) Disputes. This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.
- (e) Definitions. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.
- (f) Excusable delays. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly

B.1 (Continued)

give written notice to the Contracting Officer of the cessation of such occurrence.

- (g) Invoice. (1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include--

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, contract line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
- (x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer--Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

- (2) Invoices will be handled in accordance with the Prompt

B.1 (Continued)

Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

- (h) Patent indemnity. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.
- (i) Payment. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and OMB prompt payment regulations at 5 CFR part 1315. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if electronic funds transfer payment is made.
- (j) Risk of loss. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:
 - (1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
 - (2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.
- (k) Taxes. The contract price includes all applicable Federal, State, and local taxes and duties.
- (l) Termination for the Government's convenience. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

B.1 (Continued)

- (m) Termination for cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.
- (n) Title. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.
- (o) Warranty. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.
- (p) Limitation of liability. Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.
- (q) Other compliances. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.
- (r) Compliance with laws unique to Government contracts. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C 327, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.
- (s) Order of precedence. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:
 - (1) The schedule of supplies/services.
 - (2) The Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws. Unique to Government Contracts paragraphs of this clause.
 - (3) The clause at 52.212-5.
 - (4) Addenda to this solicitation or contract, including any license agreements for computer software.

B.1 (Continued)

- (5) Solicitation provisions if this is a solicitation.
- (6) Other paragraphs of this clause.
- (7) The Standard Form 1449.
- (8) Other documents, exhibits, and attachments.
- (9) The specification.

**B.2 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO
IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL
ITEMS (MAY 2002)**

- (a) The Contractor shall comply with the following FAR clauses, which are incorporated in this contract by reference, to implement provisions of law or executive orders applicable to acquisitions of commercial items:

- (1) 52.222-3, Convict Labor (E.O. 11755).
- (2) 52.233-3, Protest after Award (31 U.S.C. 3553).

- (b) The Contractor shall comply with the FAR clauses in this paragraph (b) which the contracting officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components:

- XX (1) 52.203-6, Restrictions on Subcontractor Sales to the Government, with Alternate I (41 U.S.C. 253g and 10 U.S.C. 2402).
- (2) 52.219-3, Notice of Total HUBZone Small Business Set-Aside (Jan 1999).
- (3) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 1999) (if the offeror elects to waive the preference, it shall so indicate in its offer).
- (4) (i) 52.219-5, Very Small Business Set-Aside (Pub. L. 103-403, section 304, Small Business Reauthorization and Amendments Act of 1994).
- (ii) Alternate I to 52.219-5
- (iii) Alternate II to 52.219-5
- XX (5) 52.219-8, Utilization of Small Business Concerns (15 U.S.C. 637 (d)(2) and (3)).
- (6) 52.219-9, Small Business Subcontracting Plan (15 U.S.C. 637 (d)(4)).
- (7) 52.219-14, Limitations on Subcontracting (15 U.S.C. 637(a)(14)).

B.2 (Continued)

- ___ (8) (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
- ___ (ii) Alternate I of 52.219-23.
- ___ (9) 52.219-25, Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- ___ (10) 52.219-26, Small Disadvantaged Business Participation Program--Incentive Subcontracting (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- ___ (11) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).
- XX (12) 52.222-26, Equal Opportunity (E.O. 11246).
- XX (13) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (38 U.S.C. 4212).
- XX (14) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793).
- XX (15) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (38 U.S.C. 4212).
- XX (16) 52.222-19, Child Labor--Cooperation with Authorities and Remedies (E.O. 13126).
- ___ (17) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (42 U.S.C. 6962(c)(3)(A)(ii)).
- ___ (ii) Alternate I of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).
- ___ (18) 52.225-1, Buy American Act--Supplies (41 U.S.C. 10a-10d).
- XX (19) (i) 52.225-3, Buy American Act--North American Free Trade Agreement--Israeli Trade Act (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note).
- ___ (ii) Alternate I of 52.225-3.
- ___ (iii) Alternate II of 52.225-3.
- ___ (20) 52.225-5, Trade Agreements (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).
- XX (21) 52.225-13, Restriction on Certain Foreign Purchases (E.O. 12722, 12724, 13059, 13067, 13121, and 13129).

B.2 (Continued)

- ___ (22) 52.225-15, Sanctioned European Union Country End Products (E.O. 12849).
 - ___ (23) 52.225-16, Sanctioned European Union Country Services (E.O. 12849).
 - ___ (24) 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration (31 U.S.C. 3332).
 - XX (25) 52.232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration (31 U.S.C. 3332).
 - ___ (26) 52.232-36, Payment by Third Party (31 U.S.C. 3332).
 - ___ (27) 52.239-1, Privacy or Security Safeguards (5 U.S.C. 552a).
 - ___ (28) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (46 U.S.C. 1241).
 - ___ (ii) Alternate I of 52.247-64.
- (c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, which the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components:
- ___ (1) 52.222-41, Service Contract Act of 1965, As Amended (41 U.S.C. 351, et seq.).
 - ___ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
 - ___ (3) 52.222-43, Fair Labor Standards Act and Service Contract Act--Price Adjustment (Multiple Year and Option Contracts) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
 - ___ (4) 52.222-44, Fair Labor Standards Act and Service Contract Act--Price Adjustment (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
 - ___ (5) 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreement (CBA) (41 U.S.C. 351, et seq.).
- (d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records--Negotiation.
- (1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access

B.2 (Continued)

- (2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.
 - (3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.
- (e) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) or (d) of this clause, the Contractor is not required to include any FAR clause, other than those listed below (and as may be required by an addenda to this paragraph to establish the reasonableness of prices under Part 15), in a subcontract for commercial items or commercial components--
- (1) 52.222-26, Equal Opportunity (E.O. 11246);
 - (2) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (38 U.S.C. 4212);
 - (3) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793);
 - (4) 52.247-64, Preference for Privately-Owned U.S.-Flag Commercial Vessels (46 U.S.C. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996); and
 - (5) 52.222-41, Service Contract Act of 1965, As Amended (41 U.S.C. 351, et seq.).

DELIVERY SCHEDULE, DELIVERY LOCATIONS -- COTTON BALE BAGS

| SHIP TO ADDRESSES | QUANTITY TO BE SHIPPED | REQUIRED DELIVERY DATE |
|---|------------------------|------------------------|
| USDA, AMS, COTTON PROGRAM 24 WINDMILL CIRCLE ABILENE, TX 79606 PH: 915 - 690-9378 JOHN FOX, AREA DIRECTOR | 700 | 8 - 1 - 2003 |
| USDA, AMS, COTTON PROGRAM 3545 TWIN RIVER BLVD CORPUS CHRISTI, TX 78410 PH: 361-241-4001 THEODORE J. PROSKE, AREA DIRECTOR | 600 | 7 - 15 - 2003 |
| USDA, AMS, COTTON PROGRAM HC66, BOX 21 INDUSTRIAL RD & HWY 65 SOUTH DUMAS, AR 71639 PH: 870-382-5328 LARRY R. CREED, AREA DIRECTOR | 2,400 | 7 - 15 - 2003 |
| USDA, AMS, COTTON PROGRAM 1725 RANGE WAY FLORENCE, SC 29501 PH: 803-667-4381 MARK A. HUDSON, AREA DIRECTOR | 2,200 | 8 - 1 - 2003 |
| USDA, AMS, COTTON PROGRAM 906 N ELGIN STREET LAMESA, TX 79331-4756 PH: 806-872-8870 ALLEN WELLS, AREA DIRECTOR | 400 | 9 - 1 - 2003 |
| USDA, AMS, COTTON PROGRAM 4316 IRONTON STREET LUBBOCK, TX 79407 PH: 806-472-7620 WENDELL WILBANKS, AREA DIRECTOR | 2,250 | 9 - 1 - 2003 |
| USDA, AMS, COTTON PROGRAM 1100 PARKWAY DRIVE MACON, GA 31220 PH: 912-474-2831 CHUCK DUBOSE, AREA DIRECTOR | 3,000 | 8 - 1 - 2003 |

(DELIVERY SCHEDULE CONTINUED on FOLLOWING PAGE)

DELIVERY SCHEDULE, DELIVERY LOCATIONS (Continued) -- COTTON BALE BAGS

| SHIP TO ADDRESSES | QUANTITY TO BE SHIPPED | REQUIRED DELIVERY DATE |
|---|------------------------|------------------------|
| USDA, AMS, COTTON PROGRAM MEMPHIS CLASSING OFFICE 3275 APPLING ROAD, ROOM 6 MEMPHIS TN 38133 ANGELA HOOPER, AREA DIRECTOR | 2,600 | 8 - 1 - 2003 |
| USDA, AMS, COTTON PROGRAM 100 CAHABA VALLEY PARKWAY PELHAM, AL 35124 PH: 205-985-4245 NOAH BELL, AREA DIRECTOR | 600 | 9 - 1 - 2003 |
| USDA, AMS, COTTON PROGRAM 2507 E CHAMBERS PHOENIX AZ 35124 PH: 602-379-3414 VERNON BURKHOLDER, AREA DIRECTOR | 1,200 | 7 - 15 - 2003 |
| USDA, AMS, COTTON PROGRAM 161 INDUSTRIAL LOOP RAYVILLE, LA 71269-8698 PH: 318-728-6418 TERRY D. SIMS, AREA DIRECTOR | 1,300 | 7 - 15 - 2003 |
| USDA, AMS, COTTON PROGRAM 7100 W. SUNNYVIEW AVENUE VISALIA CA 93291 PH: 209-651-3015 JERRY F. WARD, AREA DIRECTOR | 2,100 | 9 - 1 - 2003 |

SOLICITATION PROVISIONS

D.1 52.212-1 INSTRUCTIONS TO OFFERORS--COMMERCIAL ITEMS (OCT 2000)

- (a) North American Industry Classification System (NAICS) code and small business size standard. The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF1449). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.
- (b) Submission of offers. Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show--
 - (1) The solicitation number;
 - (2) The time specified in the solicitation for receipt of offers;
 - (3) The name, address, and telephone number of the offeror;
 - (4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;
 - (5) Terms of any express warranty;
 - (6) Price and any discount terms;
 - (7) "Remit to" address, if different than mailing address;
 - (8) A completed copy of the representations and certifications at FAR 52.212-3;
 - (9) Acknowledgment of Solicitation Amendments;
 - (10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and
 - (11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.
- (c) Period for acceptance of offers. The offeror agrees to

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hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

- (d) Product samples. When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during preaward testing.
- (e) Multiple offers. Offerors are encouraged to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.
- (f) Late submissions, modifications, revisions, and withdrawals of offers.
 - (1) Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.
 - (2)(i) Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and -
 - (A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or
 - (B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or
 - (C) If this solicitation is a request for proposals, it was the only proposal received.
 - (ii) However, a late modification of an otherwise successful offer, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

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- (3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.
- (4) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.
- (5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.
- (g) Contract award (not applicable to Invitation for Bids).
The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.
- (h) Multiple awards. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.
- (i) Availability of requirements documents cited in the solicitation.
 - (1)(i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29,

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and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to--

GSA Federal Supply Service Specifications Section
Suite 8100
470 East L'Enfant Plaza, SW
Washington, DC 20407

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more information regarding the DUNS number, including locations of the local Dun and Bradstreet Information Services offices for offerors located outside the United States, from the Internet Home Page at <http://www.customerservice@dnb.com/>. If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@mail.dnb.com.

D.2 52.233-2 SERVICE OF PROTEST (AUG 1996)

- (a) Protests, as defined in Section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

José-Luis Gallagher
USDA, APHIS, MRPBS, ASD, Contracting
Butler Square, 5th Floor
100 North Sixth Street
Minneapolis, MN 55403

- (b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

D.3 52.212-2 EVALUATION--COMMERCIAL ITEMS (JAN 1999)

- (a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers:

Technical acceptability of sample bag and price.

Technical and past performance, when combined, are significantly more important than price.

- (b) Options. The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).
- (c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.